

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JAMES PETER SVETLAUSKAS and U.S. POSTAL SERVICE,  
MAIN POST OFFICE, Oshkosh, Wis.

*Docket No. 97-626; Submitted on the Record;  
Issued December 2, 1998*

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DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,  
MICHAEL E. GROOM

The issue is whether appellant established that he sustained an emotional condition in the performance of duty.

Appellant, then a 49-year-old distribution clerk, filed a notice of occupational disease, claiming that the noise of the machines at work and the laughing and shouting of co-workers exacerbated his paranoia and forced him to stop work on October 19, 1994 after he threatened a fellow employee that he was going to "smash his face in." In support of his claim appellant described his psychiatric treatment in May 1985 when he was diagnosed with paranoid schizophrenia and subsequent return to work. He stated that he had angry outbursts from time to time, caused by the conditions at work.

On March 22, 1995 the Office of Workers' Compensation Programs informed appellant that he needed to submit a factual statement describing specific incidents at work that he believed affected his emotional condition and a rationalized medical opinion explaining how these work factors contributed to his disability. Appellant responded with a statement describing the noise problem at work, the supervisor's favoritism toward "pet" employees, his perception that everyone was against him, and the deterioration of his mental condition caused by the people at work who followed him around and "purposely" spattered his car with milk or some other creamy substance. Appellant added that the "machines make so much noise I can't concentrate on my job."

On August 16, 1995 the Office denied the claim on the grounds that the evidence failed to establish that appellant sustained an emotional condition in the performance of duty. The Office noted that the medical reports failed to discuss specific work factors or explain how appellant's condition was aggravated by his employment.

Appellant timely requested reconsideration on the grounds that his treating psychiatrist, Dr. C. Bommakanti, was wrong in stating that appellant's recent drinking binge had precipitated

the October 1994 incident because appellant had stopped drinking a full four weeks before. Appellant also submitted a summary note dated April 11, 1995 from Dr. Fraser Guy, a Board-certified psychiatrist and the director of outpatient psychiatry services at the Tomah Veterans Administration Medical Center, where appellant had been treated since 1990. The unsigned note stated that job stress had always been an issue, that over the past few years, appellant had encountered more problems in dealing with his job and had several incidents when he had become potentially violent, and that because of his mental illness, appellant remained vulnerable to job stresses and an exacerbation of his psychiatric symptoms.

On November 20, 1995 the Office denied appellant's request on the grounds that the evidence submitted in support of reconsideration was insufficient to warrant modification of its prior decision. Appellant again requested reconsideration and submitted a September 20, 1995 report from Dr. Guy.

On April 15, 1996 the Office denied appellant's request on the same grounds, noting that the latest report from Dr. Guy presented only generalizations regarding appellant's diagnosed psychiatric condition and mental status -- Dr. Guy discussed no specific work factors, incidents, or stressors that were medically connected to the diagnosed condition.

Appellant's August 7, 1996 request for reconsideration was denied on October 22, 1996 on the grounds that the evidence submitted was insufficient to warrant review of the prior decision.

The Board finds that appellant has failed to meet his burden of proof in establishing that his emotional condition was sustained in the performance of duty.

Under the Federal Employees' Compensation Act,<sup>1</sup> appellant has the burden of establishing by the weight of the reliable, probative, and substantial evidence that the condition for which he claims compensation was caused or adversely affected by factors of his federal employment. To establish that he sustained an emotional condition in the performance of duty, appellant must submit: (1) factual evidence identifying employment factors or incidents alleged to have caused or contributed to his condition; (2) medical evidence establishing that he has an emotional or psychiatric disorder; and (3) rationalized medical opinion evidence establishing that the identified compensable employment factors are causally related to his emotional condition.<sup>2</sup>

Workers' compensation law does not cover each and every injury or illness that is somehow related to employment.<sup>3</sup> There are distinctions regarding the type of work situation giving rise to an emotional condition which will be covered under the Act.

For example, disability resulting from an employee's emotional reaction to his or her regular or specially assigned duties or to a requirement imposed by the employing establishment

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<sup>1</sup> 5 U.S.C. §§ 8101-8193 (1974).

<sup>2</sup> *Vaile F. Walders*, 46 ECAB 822, 825 (1995).

<sup>3</sup> *Lillian Cutler*, 28 ECAB 125, 129 (1976).

is covered.<sup>4</sup> However, an employee's emotional reaction to an administrative or personnel matter is generally not covered,<sup>5</sup> and disabling conditions caused by an employee's fear of termination or frustration from lack of promotion are not compensable. In such cases, the employee's feelings are self-generated in that they are not related to assigned duties.<sup>6</sup>

Nonetheless, if the evidence demonstrates that the employing establishment erred or acted abusively or unreasonably in the administration of a personnel matter, any physical or emotional condition arising in reaction to such error or abuse may be covered.<sup>7</sup> However, a claimant must support his allegations with probative and reliable evidence; personal perceptions alone are insufficient to establish an employment-related emotional condition.<sup>8</sup>

The initial question is whether appellant has alleged compensable employment factors as contributing to his condition.<sup>9</sup> Thus, part of appellant's burden of proof includes the submission of a detailed description of the specific employment factors or incidents which appellant believes caused or adversely affected the condition for which he claims compensation.<sup>10</sup> If appellant's allegations are not supported by probative and reliable evidence, it is unnecessary to address the medical evidence.<sup>11</sup>

In this case, the Board finds that appellant has not established compensable work factors that are substantiated by the record and has failed to establish that the employing establishment either erred or acted abusively or unreasonably in the administration of personnel matters.

Appellant alleged that the noise from the machines at work aggravated his paranoia and led eventually to his removal from his position. The record contains a statement from the local union president who worked with appellant. He stated that after automation was implemented by the employing establishment, working conditions changed and the noise, lights, and beepers from the machines bothered appellant and put him on edge so that he could not mentally and physically handle the stressful conditions. However, this statement is nonspecific and fails to identify those incidents that aggravated appellant's mental condition. Moreover, a general allegation of too much noise at work reflects appellant's desire to work in a different

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<sup>4</sup> *Jose L. Gonzalez-Garced*, 46 ECAB 559, 563 (1995).

<sup>5</sup> *Sharon J. McIntosh*, 47 ECAB \_\_\_\_ (Docket No. 94-1777, issued August 28, 1996).

<sup>6</sup> *Barbara E. Hamm*, 45 ECAB 843, 850 (1994).

<sup>7</sup> *Margreate Lublin*, 44 ECAB 945, 956 (1993).

<sup>8</sup> *Ruthie M. Evans*, 41 ECAB 416, 425 (1990).

<sup>9</sup> *Wanda G. Bailey*, 45 ECAB 835, 838 (1994).

<sup>10</sup> *Jimmy Gilbreath*, 44 ECAB 555, 558 (1993).

<sup>11</sup> *Margaret S. Krzycki*, 43 ECAB 496, 502 (1992).

environment and such a preference does not constitute a compensable work factor under the Act.<sup>12</sup>

Appellant's assertions that co-workers were laughing at him, following him around and generally against him are unsubstantiated -- these self-generated feelings attributable to his diagnosed paranoia and thus are not compensable work factors.<sup>13</sup> Appellant described an incident of finding his car spattered but provided no evidence beyond this vague statement.<sup>14</sup>

The July 24, 1996 letter from a social worker submitted in support of reconsideration stated that working conditions and stress resulting from appellant's employment caused him to lose his job -- appellant "responded in a predictable and negative fashion to the harassment by fellow employees and to the noise and stress of the work environment." Again, this is a general allegation unsupported by any corroborating evidence of specific incidents or work factors that affected appellant's mental condition. Rather, the record indicates that the employing establishment accommodated appellant by permitting him to work in his own area and at his own pace, without deadlines.<sup>15</sup>

While appellant was found to be unfit for duty on November 3, 1994, the fact that appellant may be unable to work due to his paranoia does not establish that the condition itself was caused by work factors.<sup>16</sup> Appellant's history of this condition dated back to sixth grade, according to Dr. Bommakanti, and he was found fit for duty on August 21, 1990 because his condition was under control with medication.

Inasmuch as appellant has failed to meet his burden of proof in providing factual evidence supporting his identification of employment factors or incidents alleged to have caused or contributed to his mental condition, the Board finds that the Office properly denied his claim.<sup>17</sup>

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<sup>12</sup> Compare *Kathleen D. Walker*, 42 ECAB 603 (1991).

<sup>13</sup> See *Mary A. Sisneros*, 46 ECAB 155, 162 (1994) (finding that appellant's perceptions of an unsympathetic atmosphere in the workplace were largely self-generated and thus not covered under the Act).

<sup>14</sup> *Chester R. Henderson*, 42 ECAB 352, 359 (1991) (finding that appellant's mere allegation of harassment, without any witness' statement in support, was insufficient to establish that actual harassment had occurred).

<sup>15</sup> See *Merriett J. Kauffman*, 45 ECAB 696, 703 (1994) (finding that appellant failed to allege or establish that specific work tasks or requirements assigned to him gave rise to his emotional condition).

<sup>16</sup> See *John Watkins*, 47 ECAB \_\_\_\_ (Docket No. 94-1615, issued May 17, 1996); *Marion Thornton*, 46 ECAB 899, 906 (1995) (finding that compensation is not payable after disability from an accepted condition has ceased, even if the employee is medically disqualified to continue employment because of the effect work factors may have on the underlying condition).

<sup>17</sup> See *Raul Campbell*, 45 ECAB 869, 877 (1994) (finding that appellant failed to substantiate compensable factors of employment or allegations of error or abuse on the part of the employing establishment).

The October 22 and April 15, 1996 and November 20, 1995 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, D.C.  
December 2, 1998

George E. Rivers  
Member

David S. Gerson  
Member

Michael E. Groom  
Alternate Member